

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES TUROWSKI,	:
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	:
Plaintiff,	:
	:
- against -	:
	:
TRIARC COMPANIES, INC., NELSON PELTZ,	:
Chairman & Chief Executive, individually and in	:
his Official capacity, PETER W. MAY, President	:
& Chief Operating Officer, individually and in his	:
official capacity, STUART I. ROSEN, Senior Vice	:
President and Secretary, Individually and in his	:
Official Capacity, and JOHN R. BENDER,	:
individually, and in his official capacity,	:
	:
Defendants.	:
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**ECF CASE**

09 Civ. 3979 (VM)(FM)

**CIVIL CASE MANAGEMENT  
PLAN & SCHEDULING ORDER**

This Scheduling Order and Case Management Plan is adopted in accordance with Fed. R. Civ. P. 16-26(f).

1. This case *is* to be tried to a jury.
2. Joinder of additional parties to be accomplished by: ***The parties do not anticipate joinder of additional parties.***
3. Amended pleadings may be filed without leave of Court until: ***Not Applicable.***
4. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) to be completed within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f), specifically by not later than: ***October 1, 2009.***
5. All fact discovery is to be completed either:
  - a. Within one hundred twenty days of the date of this Order, specifically by not later than: ***January 13, 2010;*** or
  - b. Within a period exceeding 120 days, with the Court's approval, if the case presents unique complexities or other exceptional circumstances, specifically by not later than: ***Not Applicable.***
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the

Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.

- a. Initial requests for production of documents to be served by: ***October 1, 2009.***
  - b. First set of interrogatories to be served by all parties by: ***October 1, 2009.***
  - c. Depositions to be completed by: ***December 31, 2009.***
    - i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
    - ii. Depositions of all parties shall proceed during the same time.
    - iii. Unless the parties agree or the Court so orders, non-party depositions shall follow party depositions when possible.
  - d. Any additional contemplated discovery activities and the anticipated completion date: ***Not Applicable.***
  - e. Requests to Admit to be served no later than: ***December 9, 2009.***
7. All expert discovery (ordinarily conducted following the completion of fact discovery) including parties' expert reports and depositions, witness lists and identification of documents pursuant to Fed. R. Civ. P. 26(a)(2), (3) and 35(b), is to be completed by:
- a. Plaintiff: ***To serve expert report by January 29, 2010.***
  - b. Defendants: ***March 26, 2010.***
- All expert discovery to be completed by: ***April 28, 2010.***
8. Contemplated motions:
- a. Plaintiff: ***None.***
  - b. Defendants: ***Motion for Summary Judgment to be filed on or before May 21, 2010.***
9. Following all discovery, all counsel must meet for at least one hour to discuss settlement, such conference to be held by not later than: ***May 5, 2010.***
10. Do all parties consent to a trial by a Magistrate Judge under 28 U.S.C. § 636(c)? ***No.***

**TO BE COMPLETED BY THE COURT:**

11. The next Case Management Conference is scheduled for: ***January 29, 2010 at 10:00 A.M.***

In the event the case is to proceed to trial, a firm trial date and the deadline for submission of the Joint Pretrial Order and related documents shall be scheduled at the pretrial conference following either the completion of all discovery or the Court's ruling on any dispositive motion.

The Joint Pretrial Order should be prepared in accordance with Judge Marrero's Individual Practices. If this action is to be tried before a jury, proposed voir dire and jury instructions shall be filed with the Joint Pretrial Order. No motion for summary judgment shall be served after the deadline fixed for the Joint Pretrial Order.

***SO ORDERED:***

DATED: \_\_\_\_\_  
New York, New York

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VICTOR MARRERO  
U.S.D.J.

Respectfully submitted,

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